IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

WP(C).No. 18671 of 2007(W)

PETITIONER:

A.ABDUL MAJEED, HEADMASTER, G.M.L.P. SCHOOL, ALATHUR, PALAKKAD DISTRICT.

BY ADV. SRI.P.K.SURESH KUMAR
SMT.PRIYA VIJAYAN

RESPONDENTS:

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1. THE DIRECTOR OF PUBLIC INSTRUCTION, THIRUVANANTHAPURAM.

2. THE DEPUTY DIRECTOR OF EDUCATION, PALAKKAD.

3. SALEEM AZEEZ, HEADMASTER, GOVERNMENT UPPER PRIMARY SCHOOL, PUTHIYANKAM, PALAKKAD DISTRICT.

BY ADV. SRI.V.CHITAMBARESH
SRI.T.C.SURESH MENON
SRI.JIBU P THOMAS
GOVERNMENT PLEADER SRI.T.T.MUHAMOOD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/07/2007, THE COURT ON 19/07/2007 DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

Ext.P1: True copy of order No.A2-1904/07 dated 10.4.2007 issued by the 2nd respondent.

Ext.P2: True copy of judgment dated 29.3.2007in W.P.(C) No.11029/07 issued by this Hon'ble Court.

Ext.P3: True copy of Notice dated 10.5.2007 issued by the 1st respondent.

Ext.P4: True copy of order No.B1/30553/07/DPI dated 28.5.2007 issued by the 1st respondent.

Ext.P5: True copy of the order No.A2-1904/07 dated 29.5.2007 issued by the 2nd respondent.

RESPONDENT'S EXHIBITS:

Ext.R3(a): True copy of the circular dated 22.3.2005.

Ext.R3(b): true copy of the circular dated 5.2.2002.

// True copy //

P.A. To Judge

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A.K.BASHEER, J.

W.P.(C)No.18671 OF 2007

Dated this the 19th day of July, 2007

JUDGMENT

Petitioner is now working as Headmaster in GMLP School at Alathur in Palakkad district. His grievance is that his request to accommodate him in the vacancy at Puthiyankam has been ignored by respondent no.2 while issuing Ext.P5 order of transfer. According to the petitioner, in Ext.P4 order the Director of Public Instruction had noticed that petitioner had made a request for transfer to Puthiyankam and infact the Director had indicated that petitioner is entitled to get a transfer to that station, if norms of general transfer are not violated.

2. Ext.P4 will show that the Director had issued a direction to respondent no.2 to consider the above request of the petitioner for a transfer to Puthiyankam. Petitioner contends that respondent no.2 had violated the above direction issued by the Director while issuing Ext.P5.

3. It is seen that Ext.P4 order was passed on May 28, 2007. Respondent no.2 had issued Ext.P5 order on the next day viz. on May 29, 2007. Obviously, there is nothing on record to show that Ext.P4 order had been issued by respondent no.2 after receipt of Ext.P5 order. Further, I am unable to agree with the contention raised by the petitioner that there was a specific and positive direction to respondent no.2 to give a transfer and posting to him at Puthiyankam. What has been directed in Ext.P4 is only to "consider the request" of the petitioner "as per the norms of general transfer".

4. It is pointed out by the learned Government Pleader that the distance between Puthiyankam and Alathur where the petitioner is now working, is hardly 1½ km. Petitioner was transferred to Alathur at his request and he assumed charge on April 10, 2007. Petitioner had been working as Block Programme Officer at Agali since August 1, 2005 under the Sarva Siksha Abhiyan, on deputation. He had come back to the parent department after getting received from duty at

Alathur on February 23, 2007 on termination of his deputation. He was posted at Nagalassery with effect from February 24, 2007 since at that time a vacancy was available only at that station. He was transferred from Nagalassery to Alathur by respondent no.2 by his order dated April 10, 2007 on his request. It is true that petitioner had indicated Puthiyankam as one of his three stations of choice. Alathur was also one of the three choices. He was accommodated at Alathur and he had assumed charge in April 2007. At that time no vacancy was available to accommodate the petitioner at Puthiyankam, since petitioner's senior, Sri.Padmanabhan was transferred from Kallingalpadam and posted there. But later, the transfer of Sri.Padmanabhan had to be cancelled. Therefore, Ext.P5 order was issued on May 29, 2007 by which respondent no.3 was posted at Puthiyankam.

5. Having regard to the entire facts and circumstances, I do not find any reason to interfere with the order passed by respondent no.2. It is contended by the petitioner that while issuing Ext.P5 order respondent no.2 has violated the norms

and regulations of transfer governing the field, particularly the direction (as he describes it) issued by the Director in Ext.P4. He further contends that going by the interse seniority he is entitled to get preference in the matter of transfer and respondent no.3 who is his junior ought not to have been given a posting at Puthiyankam. I am unable to agree with the above contentions even assuming that petitioner is senior to respondent no.3.

6. After considering the merit of the contentions raised by the petitioner, I have no hesitation to hold that he does not deserve to get any relief in the writ petition for the reasons stated above. Petitioner has been accommodated in one of the three stations of his choice and that too as requested by him. It is true Puthiyankam was his first choice. As noticed already there was no vacancy at Puthiyankam in April 2007. Therefore, he was posted at Alathur which was his third choice. The distance between the two stations is hardly 1½ Kms.

7. Respondent no.3 has refuted the imputation of

malafides in the order issued by respondent no.2. He further contends that petitioner has no vested right to insist that he should be posted at a particular station of his choice. Respondent no.3 has also invited my attention to Ext.R3(b) circular issued by the Government in February 2002. It is stipulated in the said circular that in the case of transfers on request “the applicants should be aware of the fact that if a request transfer is given for the third or second or first choice, he will be considered for another transfer to another station only after completing atleast one year service in that station”. Since petitioner had been accommodated at a station of his choice, even if it be third, he would be entitled to seek a transfer only after one year at least. There is no merit in any of the contentions raised by the petitioner.

8. When the dictation of this judgment was half way through, learned counsel for the petitioner entered the court hall and made a request to grant him some time to file a reply affidavit. The two aspects which I have referred to in paragraph no.5 were, according to him, the contentions which

he wanted to highlight in the reply affidavit. Learned counsel went out of the court hall in a huff after putting the file on the desk when I informed him that I had already dealt with those aspects of the issue. He did not bother to wait till the dictation was over. I do not make any further comment on the conduct of the learned counsel.

Writ petition fails and it is accordingly dismissed.

A.K.BASHEER, JUDGE

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